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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **OAKLAND DIVISION**

16 BRIAN GLAUSER, individually and on
behalf of all others similarly situated,

17 *Plaintiff,*

18
19 v.

20 GROUPME, INC., a Delaware corporation,

21 *Defendant.*

Case No. 4:11-cv-02584-PJH

**PLAINTIFF GLAUSER'S UNOPPOSED
ADMINISTRATIVE MOTION
TO FILE DOCUMENTS UNDER
SEAL PURSUANT TO CIVIL
L.R. 7-11 AND 79-5**

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Brian Glauser (“Glauser”), by and through his undersigned counsel, hereby respectfully requests that the Court enter an Order permitting him to file under seal entire exhibits and portions of certain documents in connection with the filing of his Opposition to GroupMe, Inc.’s (“GroupMe”) Motion for Summary Judgment on his Individual Claims, which reference documents GroupMe has designated “Confidential,” “Highly Confidential – Attorneys’ Eyes Only” and “Highly Confidential – Source Code,” under the terms of the June 23, 2014 Protective Order entered in this matter (“Protective Order”). (Dkt. 111.) In support of the instant motion, Glauser states as follows:

1. Glauser seeks to file the following “entire” documents under seal pursuant to Civil LR 79-5:

- The Declaration of Shawn C. Davis in Support of Plaintiff’s Opposition to GroupMe’s Motion for Summary Judgment on Plaintiff’s Individual Claims. This document contains detailed references, including portions of GroupMe’s source code for its underlying proprietary text messaging platform, to documents which GroupMe has designated “Confidential,” “Highly Confidential – Attorneys’ Eyes Only” and “Highly Confidential – Source Code.” (*See* Declaration of Benjamin H. Richman ¶ 4, attached as Exhibit 1 hereto.)
- Exhibits A-D to the Declaration of Shawn C. Davis, which are documents and excerpts of documents that GroupMe has designated as “Highly Confidential – Attorneys’ Eyes Only” and “Highly Confidential – Source Code.” (*See* Declaration of Benjamin H. Richman ¶ 4, attached as Exhibit 1 hereto.)

2. Glauser seeks to file a portion of the following document under seal pursuant to Civil L.R. 79-5:

- Plaintiff’s Opposition to GroupMe’s Motion for Summary Judgment on Plaintiff’s Individual Claims. This document contains detailed references, including direct quotations, to a document which GroupMe has designated

1 “Confidential.”

2 3. Good cause exists to allow Glauser to file the above-referenced exhibits and
3 documents under seal because, as set forth in the Declaration of Benjamin H. Richman, they have
4 all been designated as “Confidential,” “Highly Confidential – Attorneys’ Eyes Only” or “Highly
5 Confidential – Source Code” by Defendant GroupMe, and include, *inter alia*, portions of the
6 source code underlying GroupMe’s proprietary text messaging platform and information related to
7 the architecture and functionality of GroupMe’s proprietary text messaging platform.

8 4. The Protective Order in this matter was entered by the Court on June 23, 2014 and
9 acknowledges that certain confidential, proprietary, or private information may be disclosed
10 during the course of discovery, and directs the Parties to follow the procedures set forth in Civil
11 L.R. 79-5 for filing such documents and information under seal.

12 5. Protective orders and filings under seal are “the primary means by which the courts
13 ensure full disclosure of relevant information, while still preserving the parties’ (and third parties’)
14 legitimate expectation that confidential business information, proprietary technology and trade
15 secrets will not be publicly disseminated.” *In re Adobe Sys., Inc., Sec. Litig.*, 141 F.R.D. 155, 161-
16 62 (N.D. Cal. 1992) (citing *Johnson Controls, Inc. v. Phoenix Control Sys.*, 886 F.2d 1173, 1176
17 (9th Cir. 1989)). A court may order the sealing of court records when they contain confidential or
18 otherwise sensitive business information. *IMAX Corp. v. Cinema Tech, Inc.*, 152 F.3d 1161, 1168
19 (9th Cir. 1998) (noting that confidential and proprietary business information is “to be filed under
20 seal.”); *In re Dual-Deck Video Cassette Recorder Antitrust Litig.*, 10 F.3d 693, 694 (9th Cir. 1993)
21 (stating that it “is common now in business litigation” to seal confidential business information by
22 a stipulated protective order).

23 6. Glauser has e-filed with the Clerk of the Court sealed versions of the above-
24 referenced documents and materials in compliance with Civil L.R. 79-5(d)(1)(C)-(D). Pursuant to
25 L.R. 79-5(e)(1), within four (4) days of Plaintiff’s e-filing of the documents and materials set forth
26 above, GroupMe must file with the Court and serve a declaration establishing that the documents
27 and materials it previously designated as “Confidential,” “Highly Confidential – Attorneys’ Eyes
28 Only” and “Highly Confidential – Source Code” are sealable.

